

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION TO ESTABLISH PROCEDURES FOR
EXEMPTION ELIGIBILITY**

This ruling grants the motion of Hercules Municipal Utility (Hercules) requesting that the Commission develop procedures for the determination of eligibility of the Customer Responsibility Surcharge (CRS) exemption provided by Decision (D.) 04-11-014.

In D.04-11-014, the Commission adopted eligibility criteria for existing publicly owned utilities (POUs) whose customers qualify for the limited CRS exemption applicable to transferred load as adopted in that order. For customers of a POU to qualify for this exemption, the POU had to be (1) providing electricity to retail end use customers on or before July 10, 2003; and (2) serving 100 or more customers. In addition to those POUs expressly listed in D.04-11-014, the Commission stated that other POUs may make a motion to be added to the eligibility list based on a demonstration that they meet the criteria established in D.04-11-014. In Ordering Paragraph 12 of D.04-11-014, the Commission stated that any entity seeking to establish such eligibility must submit evidence pursuant to procedures that would be developed.

Accordingly, Hercules, by its motion, asks the Commission to develop and promulgate the procedures for determination of the CRS exemption pursuant to D.04-11-014. Hercules indicates that it intends to request to be added to the eligibility list once the procedures to do so are adopted.

Hercules' motion is hereby granted. This ruling provides an opportunity for parties to comment concerning the appropriate processes that should be implemented for use by POU's in establishing eligibility to be added to the list for purposes of determining CRS customer exemptions.

Procedures for Establishing Exemption Eligibility

Comments are hereby solicited concerning what procedures should be employed for a POU to apply for and to be added to the list for determining CRS customer exemptions under the criteria adopted by the Commission in D.04-11-914. Parties' comments should also address what kind of documentation should be required to substantiate that a POU was providing electricity to at least 100 customers on or before July 10, 2003.

Pacific Gas and Electric Company (PG&E) raises the issue of whether the 100-customer criterion should be interpreted to require the POU to be providing electricity to 100 or more customers through distribution facilities owned and operated by the POU as of July 10, 2003. City of Corona has a different interpretation, arguing that the 100-customer criteria should not be restricted to those served through distribution facilities owned and operated by the POU. The majority of Corona's customers as of July 10, 2003 were direct access customers that were not served by POU distribution facilities. Corona believes that such DA customers are properly included in the count of customers used to determine if the eligibility exemption criteria are satisfied. Comments are

solicited concerning whether PG&E's interpretation of the 100-customer criterion is reasonable and should be adopted.

IT IS RULED that:

1. The motion of Hercules Municipal Utility is granted seeking to have the Commission implement measures for establishing POU eligibility for CRS exemptions pursuant to D.04-11-014.
2. Comments are hereby solicited as outlined above regarding the appropriate processes and procedures to be required for a POU to apply for and to be added to the list of POUs whose customers are exempt from CRS under the criteria adopted in D.04-11-014. The comments should address documentation requirements in order to substantiate that a POU was providing electricity to at least 100 customers on or before July 10, 2003.
3. Comments should also address whether the 100-customer criterion should be interpreted, as proposed by PG&E and Southern California Edison Company, to include only customers served through distribution facilities owned and operated by the POU, or whether a broader interpretation, such as proposed by Corona, should be applied.
4. Opening comments shall be filed on November 15, 2005 and reply comments shall be filed on November 22, 2005.

Dated November 7, 2005, at San Francisco, California.

/s/ Thomas R. Pulsifer
Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion to Establish Procedures for Exemption Eligibility on all parties of record in this proceeding or their attorneys of record.

Dated November 7, 2005, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.